

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MICHAEL AKKERMANN

Plaintiff,

V.

**COMMISSIONER OF SOCIAL
SECURITY,**

Defendant.

CASE NO. 2:21-cv-01579-GJL

ORDER ON MOTION FOR AN
AWARD OF ATTORNEY FEES
PURSUANT TO 42 U.S.C. § 406(b)

Presently before the Court is Plaintiff's Motion for an Award of Attorney's Fees Pursuant to 42 U.S.C. § 406(b). Dkt. 18. Defendant does not oppose the Motion. *See* Dkt. Pursuant to 28 U.S.C. § 636(c), Federal Rule of Civil Procedure 73, and Local Rule MJR 13, the parties have consented to have this matter heard by the undersigned Magistrate Judge. *See* Dkt. 2. Under 42 U.S.C. § 406(b), the Court may allow a reasonable fee for an attorney who represented a Social Security claimant before the Court and obtained a favorable judgment, as long as such fee is not in excess of 25% of the total past-due benefits. *See Grisbrecht v. Barnhart*, 535 U.S. 789 (2002). When a contingency agreement applies, the Court will look first to such agreement and will conduct an independent review to assure the reasonableness of the fee requested, taking into

1 consideration the character of the representation and results achieved. *See id.* at 807, 808.
2 Although the fee agreement is the primary means for determining the fee, the Court may reduce
3 the fee for substandard representation, delay by the attorney, or because a windfall would result
4 from the requested fee. *See Crawford v. Astrue*, 586 F.3d 1142, 1151 (9th Cir. 2009) (citing
5 *Grisbrecht*, 535 U.S. at 808).

6 Here, Plaintiff signed a contingency fee agreement agreeing to pay his attorney a fee
7 equal to 25% of the amount awarded for past-due benefits. *See Dkt. 18-2*. The representation was
8 not substandard and the results achieved were excellent. *See Dkt. 15; Dkt. 18-3; Grisbrecht*, 535
9 U.S. at 808. This Court reversed and remanded this matter to the Administration for further
10 proceedings and, following remand, Plaintiff was awarded benefits. *See Dkts. 15, 18-3*. There is
11 no evidence of an excessive delay by the attorney or that a windfall will result from the requested
12 fee.

13 Plaintiff moves for attorney's fees in the total amount of \$11,340.00, which is less than
14 25% of Plaintiff's total past-due benefits. *See Dkt. 18*. Previously, Plaintiff was awarded
15 attorney's fees of \$5,482.01 under the Equal Access to Justice Act ("EAJA"). Dkt. 17. Therefore,
16 Plaintiff is moving for a remaining attorney's fee award of \$5,857.99. Dkt. 18. After review of
17 the relevant record, Plaintiff's Motion (Dkt. 18) is **GRANTED**.

18 Dated this 28th day of December, 2023.

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Grady J. Leupold
United States Magistrate Judge